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**CIVIL AND POLITICAL RIGHTS, INCLUDING QUESTIONS OF:
DISAPPEARANCES AND SUMMARY EXECUTIONS**

Extrajudicial, summary or arbitrary executions

**Report of the Special Rapporteur, Ms. Asma Jahangir, submitted
pursuant to Commission on Human Rights resolution 2001/45**

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Executive summary

The present report, which is submitted pursuant to Commission on Human Rights resolution 2001/45, covers information received and communications sent by the Special Rapporteur on extrajudicial, summary or arbitrary executions in the period from 11 December 2000 to 1 December 2001. The report is divided into seven chapters, focusing on different aspects of the problem of extrajudicial, summary or arbitrary executions, and contains the Special Rapporteur's observations on issues falling within the purview of her mandate.

Chapter I, gives a summary of the mandate entrusted to the Special Rapporteur. In chapter II, the Special Rapporteur presents the main activities she has undertaken in the framework of her mandate during the period under review. Chapter III gives an overview of the various situations involving violations of the right to life relevant to the Special Rapporteur's mandate. In chapter IV, the Special Rapporteur presents observations regarding violations of the right to life of special groups. Chapter V gives an analysis of issues of special focus, requiring further attention and consideration. Chapter VI provides an overview of developments, in follow-up to the Special Rapporteur's country visits. Finally, in chapter VII the Special Rapporteur presents her conclusions and a number of recommendations she feels could be helpful in preventing and combating the problem of extrajudicial, summary or arbitrary executions.

It will be recalled that in previous years the Special Rapporteur has presented the Commission with an addendum summarizing the information transmitted and received by the Special Rapporteur, as well as her observations where required and considered appropriate. The Special Rapporteur regrets the severe cuts in the staff supporting her mandate at the Office of the High Commissioner for Human Rights; however, she has been able to produce such an addendum with the human resources placed at her disposal at the last minute. She hopes that sufficient resources will be placed at her disposal in the coming year to enable her to prepare this addendum in an organized manner and fulfil her reporting obligations to the Commission on Human Rights and the General Assembly.

Addendum 1 to the report contains the Special Rapporteur's report on her mission to Turkey from 19 February to 1 March 2001. The visit, which had been planned and agreed to already in 1999, was mainly aimed at allowing the Special Rapporteur to investigate in situ allegations of violations of the right to life, including deaths in custody, death threats, deaths due to excessive use of force by the police or military, killings in connection with abductions and "disappearances".

The Special Rapporteur's report describes action taken in regard to various forms of violations of the right to life, including deaths in custody, deaths due to excessive use of force by law enforcement agents, killings by security forces or paramilitary groups, death threats and deaths due to omission. The report also discusses the issue of capital punishment and makes reference to death penalty cases in which the Special Rapporteur has intervened in reaction to

reports that the sentences concerned had been passed in violation of international restrictions and human rights standards. In her report, the Special Rapporteur also discusses the situation of a number of specific categories of victims, who are particularly vulnerable or have been directly targeted for extrajudicial execution. These groups include human rights defenders, lawyers, journalists, demonstrators, members of national, ethnic, religious or linguistic minorities, internally displaced people, women, children, members of indigenous communities and persons exposed to extrajudicial killings and death threats because of their sexual orientation.

Introduction

1. This report is submitted pursuant to Commission on Human Rights resolution 2001/45 of 23 April 2001, entitled "Extrajudicial, summary or arbitrary executions". It is the fourth annual report submitted to the Commission by Ms. Asma Jahangir, and the nineteenth submitted since the mandate on summary and arbitrary executions was established by Economic and Social Council resolution 1982/35 of 7 May 1982.

2. The present report covers information received and communications sent in the period from 11 December 2000 to 1 December 2001, and is divided into seven chapters. Chapter I, gives a summary of the mandate entrusted to the Special Rapporteur. In chapter II, the Special Rapporteur presents the main activities she has undertaken in the framework of her mandate during the period under review. Chapter III gives an overview of the various situations involving violations of the right to life relevant to the Special Rapporteur's mandate. In chapter IV, the Special Rapporteur presents observations regarding violations of the right to life of special groups. Chapter V gives an analysis of issues of special focus, requiring further attention and consideration. Chapter VI provides an overview of developments, in follow-up to the Special Rapporteur's country visits. Finally, in chapter VII the Special Rapporteur presents her conclusions and a number of recommendations she feels could be helpful in preventing and combating the problem of extrajudicial, summary or arbitrary executions.

3. It will be recalled that in previous years the Special Rapporteur has presented the Commission with an addendum summarizing the information transmitted and received by the Special Rapporteur, as well as her observations where required and considered appropriate. The Special Rapporteur regrets the severe cuts in the staff supporting her mandate at the Office of the High Commissioner for Human Rights; however she has been able to produce such an addendum with the human resources placed at her disposal at the last minute. She hopes that sufficient resources will be placed at her disposal in the coming year to enable her to prepare this addendum in an organized manner and fulfil her reporting obligations to the Commission on Human Rights and the General Assembly.

4. Addendum 1 to the report contains the Special Rapporteur's report on her mission to Turkey from 19 February to 1 March 2001. The visit, which had been planned and agreed to already in 1999, was mainly aimed at allowing the Special Rapporteur to investigate in situ allegations of violations of the right to life, including deaths in custody, death threats, deaths due to excessive use of force by the police or military, and killings in connection with abductions.

5. During the reporting period, the Special Rapporteur has continued to receive reports describing violations of the right to life in all regions of the world. The cruelty of these crimes is beyond comprehension and their devastating effects on the families of victims and society as a whole cannot be underestimated. Governments must recognize their obligation to do everything in their power to stop these atrocities. The unwillingness on the part of some Governments to face the challenges of bringing to an end longstanding conflicts, which are allowed to drag on and grow, further seriously erodes the credibility of the State as a viable authority.

I. THE MANDATE

A. Terms of reference

6. In resolution 2001/45, the Commission on Human Rights requested the Special Rapporteur to continue to examine situations of extrajudicial, summary or arbitrary executions, to respond effectively to information which comes before her and to enhance further her dialogue with Governments, as well as to follow up recommendations made in reports after visits to particular countries. The Commission also requested the Special Rapporteur to continue monitoring the implementation of existing international standards on safeguards and restrictions relating to the imposition of capital punishment, bearing in mind the comments made by the Human Rights Committee in its interpretation of article 6 of the International Covenant on Civil and Political Rights, as well as the Second Optional Protocol thereto.

7. In its resolution, the Commission also requested the Special Rapporteur to apply a gender perspective in her work and to pay special attention to violations of the right to life of children, participants in demonstrations or other public manifestations, persons belonging to minorities, and individuals carrying out peaceful activities in defence of human rights and fundamental freedoms. The Commission further urged the Special Rapporteur to draw the attention of the United Nations High Commissioner for Human Rights to such situations of extrajudicial, summary or arbitrary executions that are of particularly serious concern to her or where early action might prevent further deterioration. The Commission welcomed the cooperation established between the Special Rapporteur and other United Nations mechanisms and procedures relating to human rights and encouraged the Special Rapporteur to continue efforts in that regard.

B. Violations of the right to life upon which the Special Rapporteur takes action

8. During the reporting period, the Special Rapporteur acted in the following situations:

- (a) Genocide;
- (b) Violations of the right to life during armed conflict, especially of the civilian population and other non-combatants, contrary to international humanitarian law;
- (c) Deaths due to attacks or killings by security forces of the State, or by paramilitary groups, death squads or other private forces cooperating with or tolerated by one or several States;
- (d) Deaths due to the use of force by law enforcement officials or persons acting in direct or indirect compliance with the State, when the use of force is inconsistent with the criteria of absolute necessity and proportionality;
- (e) Deaths in custody due to torture, neglect or use of force, or life-threatening conditions of detention;

(f) Death threats and fear of imminent extrajudicial executions by State officials, paramilitary groups, private individuals or groups cooperating with or tolerated by the Government, as well as by unidentified persons who may be linked to the categories mentioned above;

(g) Expulsion, refoulement or return of persons to a country or a place where their lives are in danger, as well as the prevention of persons seeking asylum from leaving a country where their lives are in danger through the closure of national borders;

(h) Deaths due to acts of omission on the part of the authorities, including mob killings. The Special Rapporteur may take action if the State fails to take positive measures of a preventive and protective nature necessary to ensure the right to life of any person under its jurisdiction;

(i) Breach of the obligation to investigate alleged violations of the right to life and to bring those responsible to justice;

(j) Breach of the additional obligation to provide adequate compensation to victims of violations of the right to life, and failure on the part of Governments to recognize compensation as an obligation;

(k) Violations of the right to life in connection with the death penalty. The Special Rapporteur intervenes where capital punishment is imposed in violation of articles 6.2 and 15 of the International Covenant on Civil and Political Rights and article 37 (a) of the Convention on the Rights of the Child, article 77.5 and other relevant articles of the Geneva Conventions of 1949 and the Additional Protocols thereto of 1977. In addition, the Special Rapporteur is guided by various resolutions of United Nations organs and bodies, in particular:

- (i) General Assembly resolutions 2857 (XXVI) of 20 December 1971 and 32/61 of 8 December 1977 regarding capital punishment;
- (ii) General Assembly resolution 44/128 of 15 December 1989, in which the Assembly adopted and opened for signature, ratification and accession the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;
- (iii) Commission on Human Rights resolutions 1997/12, 1998/8, 1999/61 and 2000/65 regarding the death penalty;
- (iv) The Safeguards guaranteeing protection of the rights of those facing the death penalty, adopted by the Economic and Social Council in resolution 1984/50 on 25 May 1984, and endorsed by the United Nations General Assembly in resolution 39/118, adopted on 14 December 1984;
- (v) Economic and Social Council resolution 1989/64 adopted on 24 May 1989.

9. In view of these guidelines and international standards, the Special Rapporteur acts where:

- (a) The crime concerned cannot be considered "most serious", as stipulated under article 6.2 of the International Covenant on Civil and Political Rights;
- (b) The death penalty is imposed retroactively;
- (c) Persons are sentenced to death for crimes committed when they were less than 18 years of age;
- (d) Expectant or recent mothers face the death penalty;
- (e) Persons suffering from mental illness or handicap or those with extremely limited mental competence face the death penalty;
- (f) A death sentence which has been implemented is posthumously overturned;
- (g) Consular assistance is denied or not made available to a person facing the death penalty;
- (h) The accused is denied his or her right to appeal or seek pardon or commutation of a death sentence;
- (i) A death sentence is imposed following a trial where international standards of impartiality, competence, objectivity and independence of the judiciary were not met;
- (j) The legal system does not conform to minimum fair trial standards;
- (k) The death penalty is imposed as a mandatory measure without due regard to the safeguards enumerated above and compelling mitigating circumstances thus cannot be taken into consideration.

C. Legal framework and methods of work

10. For an overview of the international legal standards by which the Special Rapporteur is guided in her work, she makes reference to the report of her predecessor to the Commission on Human Rights at its forty-ninth session (E/CN.4/1993/46, paras. 42-68). The Special Rapporteur has largely followed the methods of work developed and applied by the previous Special Rapporteur, Mr. Bacre Waly Ndiaye, which are described in his report to the Commission on Human Rights at its fiftieth session (E/CN.4/1994/7, paras. 13-67), as well as his subsequent reports to the Commission (E/CN.4/1995/61, paras. 9-40 and E/CN.4/1996/4, paras. 11-12).

II. ACTIVITIES

A. General remarks

11. During the present reporting period, the Special Rapporteur has held a number of consultations with the Office of the High Commissioner for Human Rights in Geneva. She has had the opportunity to meet with the High Commissioner for Human Rights and her staff, as well as with a number of other special rapporteurs, representatives and experts appointed by the Commission on Human Rights. In the past year, she has also on numerous occasions taken joint action, including through joint urgent appeals, with other special rapporteurs and working groups mandated by the Commission on Human Rights. The Special Rapporteur presented her previous report (E/CN.4/2001/9) to the Commission on Human Rights at its fifty-seventh session on 4 April 2001. From 18 to 22 June 2001, she participated in the eighth annual Meeting of Special Rapporteurs/Representatives/Experts and Chairpersons of the special mechanisms of the Commission on Human Rights, held in Geneva. In addition, the Special Rapporteur met with Permanent Mission and other government representatives who had comments on her reports. She found these discussions most useful and welcomes such opportunities for exchange.

B. Communications

12. The Special Rapporteur has particular regard for the individual complaints she receives, as they offer an important channel for victims, their families and members of the international society to have their voices heard. Reports of actual incidents form a solid basis for the Special Rapporteur's communications to Governments and they lend further credence to the surrounding information received by the Special Rapporteur. She wishes to point out that the figures presented below only give an indication of the situation regarding her mandate. They do not reflect the entire picture, nor do these figures narrate the anguish suffered by societies that witness extrajudicial, summary or arbitrary executions. The amount of information received is enormous. It has to be selected, categorized, analysed and verified before being communicated to the Governments concerned. So far, the Special Rapporteur has been selective in sending communications, basing her criteria on proper verification of the case, as well as the nature and seriousness of the allegation.

13. During the period under review, the Special Rapporteur transmitted 147 urgent appeals on behalf of some 460 persons and a large number of groups of people to the following countries: Argentina (3), Bahrain (1), Bangladesh (2), Bolivia (4), Brazil (3), Burundi (1), Canada (1), China (9), Colombia (42), Congo (1), Croatia (1), Democratic Republic of the Congo (1), Dominican Republic (1), El Salvador (1), Ecuador (5), Georgia (1), Guatemala (10), Haiti (1), Honduras (3), India (2), Indonesia (2), Iran (Islamic Republic of) (3), Jamaica (2), Jordan (4), Mexico (5), Nicaragua (1), Nigeria (1), Oman (1), Pakistan (2), Paraguay (1), Peru (1), Russian Federation (1), Rwanda (1), Saudi Arabia (1), Singapore (2), Turkey (3), United States of America (18), Uzbekistan (3), Viet Nam (1), Yemen (1). She also sent four urgent appeals to the Palestinian Authority, four to the Taliban Council and one to the leadership of "Puntland" in Somalia.

14. Eighty-three urgent appeals were transmitted jointly with other mechanisms of the Commission on Human Rights, such as the Special Rapporteur on the question of torture, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the freedom of opinion and expression, the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on the human rights of migrants, the Chairman-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative on the situation of human rights in the Islamic Republic of Iran, the Representative of the Secretary-General on internally displaced persons, the Special Representative of the Secretary-General on human rights defenders.

15. The Special Rapporteur further transmitted allegations regarding violations of the right to life of more than 700 individuals to the Governments of the following 41 countries: Albania (1), Algeria (1), Azerbaijan (1), Bangladesh (1), Bolivia (3), Brazil (1), China (17), Colombia (264), Ecuador (1), Egypt (4), Georgia (1), Guinea (1), Honduras (8), India (50), Indonesia (19), Israel (26), Jamaica (18), Kenya (4), Kyrgyzstan (2), Liberia (1), Mexico (1), Myanmar (122), Pakistan (7), Nicaragua (2), Nigeria (over 100), Paraguay (5), Papua New Guinea (4), Peru (1), Philippines (5), Portugal (3), Russian Federation (60), Rwanda (3), Slovakia (1), Turkey (14), Senegal (1), Sri Lanka (4), Sudan (2), United Arab Emirates (1), Ukraine (1), Uzbekistan (7), Zimbabwe (2). Allegations were also transmitted to the Palestinian Authority regarding four cases of alleged violations of the right to life. In more than 380 of these cases the Special Rapporteur intervened jointly with other mandate holders, in particular the Special Rapporteur on the question of torture, the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the right to freedom of opinion and expression, and the Special Representative of the Secretary-General on the situation of human rights defenders.

16. During the period under review, the following Governments sent replies to urgent appeals or communications addressed to them by the Special Rapporteur: Algeria, Argentina, Bangladesh, Bahrain, Bolivia, Cameroon, Canada, Chile, China, Colombia, Côte d'Ivoire, Croatia, Dominican Republic, El Salvador, Georgia, Guatemala, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Israel, Jamaica, Kenya, Lebanon, Mexico, Nepal, Nicaragua, Pakistan, Panama, Peru, Russian Federation, Saudi Arabia, Senegal, Singapore, Sri Lanka, Sudan, Thailand, Tunisia, Turkey, Ukraine, United States of America, Viet Nam, Yemen, Yugoslavia. The Special Rapporteur wishes to express her appreciation to those Governments which have provided comprehensive replies to her communications for their cooperation.

17. Regrettably, some Governments have replied only in part or on an irregular basis to her inquiries. She is concerned that the Governments of Botswana, Bosnia and Herzegovina, Burkina Faso, Burundi, Ecuador, Guinea-Bissau, Haiti, Rwanda, Sierra Leone, South Africa, Trinidad and Tobago and Uganda did not reply to any of her communications and requests for information transmitted in the past three years.

18. The Special Rapporteur regrets that the Governments of Rwanda and Romania have not replied to communications in the past four years. The Governments of Cambodia and Papua New Guinea have not replied to any of the communications transmitted by the Special Rapporteur in the past five years.

19. In this connection, the Special Rapporteur wishes to clarify that, contrary to the impression given in her previous report (E/CN.4/2001/9, para. 16), the Government of Bangladesh has been forthcoming in replying to her communications over the past three years.

C. Visits

20. Since her appointment, the Special Rapporteur has written to a number of Governments expressing her interest in visiting their countries. At the time of writing, the Governments of Brazil, Colombia, Côte d'Ivoire and Yugoslavia had responded positively to these communications. She looks forward to carrying out missions to these countries, as and when her schedule allows. The Special Rapporteur has requests pending with the Governments of Algeria, Bahrain, Cameroon, India, Israel, Jamaica, Pakistan, the Russian Federation, Sierra Leone and Uganda. With the passage of time the request for visits will need to be reprioritized and in the coming year the Special Rapporteur will be communicating with Governments where requests for visits are pending.

21. At the invitation of the Government, the Special Rapporteur visited Turkey from 19 February to 1 March 2001. The visit, which had been planned and agreed to already in 1999, was mainly aimed at allowing the Special Rapporteur to investigate *in situ* allegations of violations of the right to life, including deaths in custody, deaths due to excessive use of force by the police or military, and killings in connection with abductions and "disappearances". During her visit, the Special Rapporteur had the opportunity to meet with governmental officials and representatives of civil society in Ankara, Diyarbakir, Batman and Istanbul. She wishes to express her appreciation to the Government of Turkey for its support and cooperation. The Special Rapporteur's observations, conclusions and recommendations from this mission are to be found in addendum 1 to the present report.

22. From 6 to 16 August 2001, the Special Rapporteur visited Honduras. During her visit, the Special Rapporteur held meetings with a large number of government officials, including cabinet ministers. She particularly appreciated the opportunity to meet with the President of Honduras to discuss issues relevant to her mandate. She also held meetings with members of the judiciary, political parties and the National Commissioner for Human Rights. The programme further included extensive briefings with representatives of civil society, including non-governmental organizations, lawyers and journalists. The Special Rapporteur takes this opportunity to thank the Government of Honduras for its cooperation and support during this mission. The Special Rapporteur will report separately on her findings, conclusions and recommendations from the mission.

23. During its special session on the situation in Israel and the Occupied Territories from 17 to 19 October 2000, the Commission on Human Rights adopted resolution E/CN.4/S-5/1, dated 19 October 2000, in which it, *inter alia*, requested the Special Rapporteur, together with a number of other mandate holders, to carry out immediate missions to the area concerned and report on their findings to the Commission on Human Rights at its fifty-seventh session and, on an interim basis, to the General Assembly at its fifty-fifth session. The resolution was endorsed by the Economic and Social Council on 22 November 2000. Since the adoption of the resolution, the Special Rapporteur has written repeatedly to the Government of Israel requesting that she be provided with a visa, so as to

enable her to discharge her mandate. The most recent of these letters was sent on 22 June 2001. So far, the Government has not agreed to this request. The Special Rapporteur continues to follow the events and will pursue her request for a visit with the Government of Israel.

24. In this connection, the Special Rapporteur takes note of the letter from the Permanent Observer of Palestine to the United Nations in Geneva dated 26 January 2001, urging the Special Rapporteur to carry out her mandate under resolution S-5/1 as soon as possible.

25. In this connection, the Special Rapporteur further wishes to recall resolution 2000/58, entitled "The situation in the Republic of Chechnya in the Russian Federation", adopted by the Commission on Human Rights during its fifty-sixth session. In this resolution the Commission requested several of the thematic mechanisms, including the Special Rapporteur on extrajudicial, summary or arbitrary executions, to conduct missions to Chechnya. It may be noted that the Special Rapporteur had requested an invitation to visit Chechnya already in March 2000, i.e. before the adoption of the resolution. At the time of writing, the Government of the Russian Federation had not responded to this request.

26. The Special Rapporteur considers field missions a central element in the discharge of the mandate, as they allow her to gather first-hand information for preparing well-documented and objective reports. Field research in specific countries is also of crucial importance when analysing patterns of human rights abuses and the root causes which give rise to and perpetuate violations of the right to life. It gives her an opportunity to exchange views with Governments and lends support to the work of civil society. During the past year, the Special Rapporteur has been approached by a number of non-governmental organizations, representatives of civil society and private individuals urging her to seek invitations to carry out missions to various locations. The Special Rapporteur appreciates this input and the genuine commitment and concern expressed by these interlocutors. The decision to seek an invitation to visit a particular country is based on a variety of considerations, inter alia, a thorough analysis of the human rights situation in the countries concerned, the likely or expected impact of a visit, and practical factors determining the feasibility of field missions. She is concerned, however, that the resources currently placed at her disposal do not always allow her to submit her mission reports in a timely manner, and to respond effectively to the calls and needs for field missions to be carried out in various parts of the world.

III. OVERVIEW OF SITUATIONS INVOLVING VIOLATIONS OF THE RIGHT TO LIFE

A. Genocide

27. The Special Rapporteur believes that the crime of genocide must be regarded as a threat to international peace and security, thereby placing greater responsibility on the international community to ensure that human rights violations of such scale are investigated and those responsible brought to justice. This is an indispensable action for prevention.

28. In this regard, it may be noted that the Secretary-General's Investigative Team charged with investigating violations of human rights and international law in the Democratic Republic of the Congo was unable to complete its work owing to lack of cooperation on the part of the

Government. They noted in their report (S/1998/581, annex) that "the systematic massacre of those [Rwandan Hutus] remaining in Zaire was an abhorrent crime against humanity, but the underlying rationale for the decisions is material to whether these killings constituted genocide".

29. All crimes of genocide must be investigated, without exception. Political considerations get in the way of the setting up of special tribunals at the national or international levels. To overcome this, an international criminal court is necessary to fill a vacuum in the discharge of justice. The Rome Statute of the International Criminal Court, adopted in 1998, provides for a permanent mechanism to deal with crimes affecting the entire human race, such as genocide. It will be an important milestone in the fight against genocide and the Special Rapporteur therefore sincerely hopes that countries will move to ratify the Statute.

B. Deaths due to excessive use of force by law enforcement officials

30. In this connection, the Special Rapporteur transmitted allegations regarding violations of the right to life of 49 persons, to the Governments of the following countries: Algeria (1), Bolivia (3), Brazil (1), India (10), Indonesia (4), Jamaica (23), Kenya (2), Papua New Guinea (4), Senegal (1). Three allegations were transmitted to the Palestinian Authority. In this context, she also sent urgent appeals to the Governments of Indonesia and Turkey. One urgent appeal was also sent to the Palestinian Authority.

31. The situation in Indonesia is a cause for continuing concern. There are numerous accounts of excessive use of force by the police and by army soldiers, which allegedly has led to a number of deaths in connection with peaceful demonstrations. The Special Rapporteur is particularly concerned at the apparent impunity with which these grave human rights violations are allowed to continue. She further notes reports from India, where security forces are alleged to have used excessive and lethal force on several occasions in connection with crowd control during public demonstrations by marginalized castes within the Hindu religion. During the period under review, the Special Rapporteur has also sent allegations regarding killings as a result of excessive use of force to the Government of Jamaica. According to reports, between 7 and 10 July 2001 at least 22 people were killed and around 38 others wounded by members of the Jamaican security forces in Tivoli Gardens in west Kingston, an area dominated by the opposition Jamaica Labour Party (JLP). As noted in chapter II above, the Special Rapporteur has written to the Government requesting an invitation to visit Jamaica to investigate in situ allegations brought to her attention.

32. On 15 October 2001, the Special Rapporteur issued a statement expressing her deep concern at reports that several people had been killed by security forces during demonstrations in Pakistan and Palestine, in connection with the military operations in Afghanistan led by the United States of America. Five people, including a 12-year-old boy, were killed when riot police opened fire against demonstrators in the province of Balochistan, Pakistan. Two people were shot dead by Palestinian police during demonstrations in Gaza. One of them was 14 years old. In her statement, the Special Rapporteur stressed that it was imperative that these cases be promptly, thoroughly and impartially investigated, so that the norms of justice are observed. She further urged Governments to take immediate steps to ensure that the right to life of participants in demonstrations is protected and to provide the police with training and adequate equipment for non-lethal crowd control.

C. Deaths in custody

33. The Special Rapporteur transmitted allegations of the death in custody of 150 persons to the Governments of the following countries: Albania (1), Azerbaijan (1), China (17), Colombia (2), Ecuador (1), Egypt (2), Georgia (1), Guinea (1), Honduras (4), India (14), Indonesia (3), Kenya (2), Kyrgyzstan (2), Liberia (1), Myanmar (8), Pakistan (6), Nicaragua (1), Peru (1), Portugal (3), Russian Federation (50), Rwanda (3), Slovakia (1), Sri Lanka (1), Sudan (2), Turkey (14), United Arab Emirates (1), Uzbekistan (7). One allegation was sent to the Palestinian Authority. In this connection, the Special Rapporteur sent urgent appeals to the Governments of China and Uzbekistan. In both cases, there were fears that the detainees in question could die owing to lack of adequate medical attention.

34. In this context, the Special Rapporteur wishes to express her particular alarm over reports from China describing a large number of cases in which detainees, many of whom were followers of the Falun Gong movement, had died as a result of severe ill-treatment, neglect or lack of medical attention. She takes particular note of allegations that 15 female prisoners, all reportedly members of the Falun Gong movement, died as a result of torture in June 2001 in Wanjia Labour Camp in Heilongjiang Province.

35. The Special Rapporteur also continues to receive reports from Uzbekistan of cases in which people have died in custody after having been arrested by the police. In many instances, the dead body of the detainee was allegedly delivered to the family without explanation. In some cases the families were reportedly made to bury the body without an autopsy having been carried out, and threatened not to talk about what had happened. The Special Rapporteur further takes note of a large number of cases reported from India, where the police had allegedly beaten or shot detainees to death while in custody. Cases of death in detention were also related to the Special Rapporteur during her mission to Turkey. For a more detailed discussion of this issue, reference is made to addendum 1 to the present report.

D. Death threats

36. The Special Rapporteur transmitted urgent appeals aimed at preventing loss of life after having received reports of situations where the lives and physical integrity of persons were feared to be in danger. In this context 81 urgent appeals were sent to the Governments of the following countries: Argentina (3), Bangladesh (1), Bolivia (4), Brazil (3), Colombia (37), Dominican Republic (1), Ecuador (5), El Salvador (1), Georgia (1), Guatemala (8), Haiti (1), Honduras (3), India (1), Jamaica (1), Mexico (4), Nicaragua (1), Paraguay (1), Peru (1), Russian Federation (1), Rwanda (1), Turkey (2),

37. In this regard, the Special Rapporteur wishes to express her deep concern over the situation in Colombia and Guatemala, where large numbers of human rights defenders, journalists, trade unionists and political activists continue to receive death threats. During the present reporting period, the Special Rapporteur has also approached the Government of Mexico regarding death threats against human rights defenders, particularly in connection with the assassination of Ms. Digna Ochoa y Placido on 19 October 2001. (For a more detailed discussion concerning Ms. Ochoa and the situation of human rights defenders in general, see chapter V, section E of the present report.)

E. Expulsion, refoulement or return of persons to a country or place where their lives are in danger

38. On 14 May 2001, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on torture to the Government of Canada regarding the case of Kassem Ahmad Mohyalden and his 15-year-old son, both Yemeni citizens, who were reportedly at risk of being deported to Yemen. Concerns had been expressed that they could be at serious risk of torture and execution upon return, because of Kassem Ahmad Mohyalden's earlier political activities in Yemen. In their appeal the Special Rapporteurs requested that the Government of Canada ensure that the two would not be deported without unequivocal guarantees from the Government of Yemen that Mr. Mohyalden and his son would not be subjected to the death penalty, torture or any other form of ill-treatment upon return. They also urged that a system to monitor the treatment of the persons in question be put in place with a view to ensuring that they would be treated with respect for their human dignity. In its comprehensive reply of 21 June 2001, the Government of Canada noted, inter alia, that the two persons in question had been afforded risk assessment, including that provided by the Federal Court of Canada, and had failed to establish a serious possibility that they faced danger upon return to Yemen. However, in the light of the Special Rapporteurs' intervention, the authorities had reviewed the case and concluded that neither the Mohyaldens' personal circumstances nor the situation in Yemen supported their submission that their return to Yemen had placed them at risk of torture or the death penalty. The decision to return Mr. Mohyalden and his son had been carried out as scheduled.

39. On 18 April 2001, the Special Rapporteurs on torture, migrants and extrajudicial, summary or arbitrary executions sent a joint urgent appeal to the Government of Jordan regarding the planned forcible return to Iraq of Mr. Abd' al-Ridha Jazi' al-Ibrahimi. As a deserter from the Iraqi army, he allegedly risked facing execution upon return.

40. On 27 August 2001, the Special Rapporteur sent an urgent appeal to the Government of Pakistan regarding 14 Afghan nationals residing in Pakistan who were reported to be at risk of execution should they enter Afghan territory. In her letter the Special Rapporteur urged the Government of Pakistan, in a humanitarian spirit, to ensure that these persons would not be forced to enter Afghanistan.

F. Deaths due to acts of omission

41. The Special Rapporteur intervenes in cases where the authorities are reported to have failed to take effective or meaningful action in order to prevent extrajudicial killings from taking place. In this connection, allegations were sent to the Governments of Indonesia, Israel, Jamaica and Zimbabwe. It is reported that in Central Kalimantan, Indonesia, on 21 February 2001 a group of mainly "Dayak" men armed with machetes attacked migrants from the neighbouring islands of Java and Madura. Allegedly, more than 270 people were killed, including women and children. It was alleged that government forces present at the scene did not intervene to stop the violence. In reply to a joint appeal from the Special Rapporteurs on migrants and extrajudicial, summary or arbitrary executions concerning this incident, the Government of Indonesia stated that it had taken immediate measures to contain the violence, including the dispatch of military

reinforcements to the area and the imposition of a curfew. The Government added that it was taking steps to address the root causes of the situation, with a view to preventing the recurrence of such tragic events in the future.

42. The Special Rapporteur transmitted an allegation to the Government of Israel, regarding a case in which Israeli soldiers were alleged to have blocked the passage of an ambulance transporting a critically ill person. As a result of this delay, the patient was reported to have lost a lot of blood. She allegedly died two hours after reaching hospital. In Jamaica, at St. Catherine's District Prison and at the Kingston General Penitentiary in August 1997, 16 prisoners were reportedly killed by other inmates in attacks targeting detainees known or believed to be homosexuals. The incidents allegedly occurred after guards had left the premises in protest against insinuations that they had had sexual relations with prisoners. It was alleged that no action had been taken against those responsible for the attacks.

43. The Special Rapporteur also transmitted an allegation to the Government of Bangladesh regarding attacks against Hindus and members of other religious minorities by groups linked to the Bangladesh Nationalist Party, in connection with the 1 October 2001 general election. It was reported that the police had failed to intervene to stop the violence and protect the victims.

G. Capital punishment

44. In its resolution 2001/45, the Commission on Human Rights requested the Special Rapporteur to continue monitoring the implementation of existing international standards on safeguards and restrictions relating to the imposition of capital punishment, bearing in mind the comments made by the Human Rights Committee in its interpretation of article 6 of the International Covenant on Civil and Political Rights, as well as the Second Optional Protocol thereto.

45. In this context, the Special Rapporteur transmitted 44 urgent appeals to the Governments of the following countries: Bahrain (1), China (7), Congo (1), Democratic Republic of the Congo (1), India (1), Iran (Islamic Republic of) (3), Jordan (3), Nigeria (1), Oman (1), Pakistan (1), Saudi Arabia (1), Singapore (2), United States of America (18), Uzbekistan (1), Viet Nam (1), Yemen (1). In this connection, she also sent one urgent appeal to the Taliban Council, three to the Palestinian Authority and one to the leadership of "Puntland" in Somalia. For a more detailed discussion of this issue, see chapter V, section F of the present report.

IV. VIOLATIONS OF THE RIGHT TO LIFE OF SPECIAL GROUPS

A. Violations of the right to life of women

46. During the period under review, the Special Rapporteur transmitted urgent appeals on behalf of 38 women whose lives were believed to be at risk to the Governments of Bahrain, Colombia, Guatemala, Iran, Israel, Jamaica, Mexico, Nigeria, Pakistan, Saudi Arabia, Turkey and Uzbekistan. An urgent appeal was also sent to the leadership of the province of "Puntland"

in Somalia. In addition, the Special Rapporteur transmitted allegations of 109 cases of violations of the right to life of women to the Governments of the following countries: Bolivia (1), China (17), Colombia (18), Honduras (2), India (2), Israel (5), Mexico (1), Myanmar (52), Pakistan (1), Russian Federation (6), Sri Lanka (4).

47. The Special Rapporteur wishes to point out that the figures provided above do not necessarily represent the total number of women on whose behalf the Special Rapporteur has taken action, as they only reflect those cases in which it was specifically indicated that the victim was female.

48. In this context, the Special Rapporteur wishes to draw attention to the following cases reported from Sri Lanka. In September 1996, Velauthapillai Rajani, a 22-year-old woman from Umumpirai North was reportedly arrested by soldiers of the Sri Lankan army. She was allegedly dragged into a house where she is believed to have been raped. Her naked and dead body was allegedly later found nearby. On 13 July 1999, Ida Hamilitta, a 21-year-old woman was reportedly raped, beaten, stabbed and shot in her genitals by army soldiers in her home in Pullimunai in Mannar district. On 2 October 2000, Krishnapillai Thayayothy, a 32-year-old woman, was reportedly raped, killed and mutilated by Home Guards operating with government forces at Poomaraththadichanai, Muttur. On 30 August 2001, the Special Rapporteur on extrajudicial, summary or arbitrary executions together with the Special Rapporteurs on torture and violence against women, its causes and consequences sent a joint letter to the Government of Sri Lanka requesting it to inform them of the steps taken to bring those responsible for these human rights violations to justice.

49. In this connection, the Special Rapporteur wishes to express her particular concern with regard to the situation in Myanmar. During the present reporting period she submitted 52 cases of alleged killings of women by government forces to the Government of Myanmar. It is reported, that many of these women were severely ill-treated and gang-raped before being beaten or shot dead.

50. The Special Rapporteur is disturbed at the number of reports emanating from some countries showing a tense relationship between employers and immigrant workers. Apparently, in many cases the situation deteriorates to the extent that violence is reported to be regularly used by the employers and the employees resort to killing their employers to avenge this brutality. In this context, the Special Rapporteur wishes to make reference also to the case of Yeshworq Desta Zewdu, a documented Ethiopian migrant worker in Bahrain, who was sentenced to death on 28 November 2000 for the murder of her employer. It is alleged that she had no access to legal assistance and that the fact that she had been subjected to continuous physical and psychological abuse by her employer, who had not paid her for the previous two years, had not been taken into account during her trial. In its reply of 22 January 2001 to a joint urgent appeal with the Special Rapporteur on migrants sent on 21 December 2000, the Government of Bahrain stated that Ms. Zewdu was being fully represented by an independent defence lawyer, and that full and complete judicial safeguards were in place to prevent any form of injustice.

51. In Saudi Arabia, Siti Zaenab binti Duhri Rupa was reportedly sentenced to death for the murder of her employer. It is alleged that she was tried without any legal assistance. On 29 March 2001, the Special Rapporteur sent an urgent appeal together with the Special Rapporteur on migrants calling on the Government of Saudi Arabia to exercise its authority to stay Siri Zaenab binti Duhri Rupa's execution, so as to allow a thorough review of her case. The Government of Saudi Arabia replied to say that Ms. Duhri Rupa was indicted after questioning and that she explicitly confessed to the offence. She was sentenced to death but the sentence had not yet been carried out, pending attainment of the age of majority by the murdered woman's eldest child, who may agree to accept financial compensation or pardon the victim.

52. The Special Rapporteur continues to receive reports of murder of women in the name of honour, but she limits herself to act where the State either approves of or supports these acts or extends impunity to the perpetrators by giving tacit support to this criminal practice. The law whereby heirs of the victims can either accept compensation in place of any form of punishment or pardon the offender gives an open licence to male relatives to murder women on the justification of being offended by the dead women's behaviour. This form of institutionalized impunity for the so-called "honour killing" of women is unacceptable and is a violation of the right to life of a person on the basis of her sex. During her mission to Turkey, the Special Rapporteur also discussed the issue of "honour killings" with human rights defenders, lawyers and witnesses. For a more detailed discussion on this matter, see addendum 1 to the present report.

B. Violations of the right to life concerning refugees and internally displaced persons

53. The Special Rapporteur is deeply concerned at reports of deliberate attacks against refugees and internally displaced persons (IDPs). Such incidents have been particularly common in situations of internal conflict and unrest, where the direct targeting of civilians has increasingly become part of the tactics employed by the parties involved. During the period under review, the Special Rapporteur sent urgent appeals to the Government of Colombia concerning threats and attacks by paramilitary forces against groups of internally displaced people. It may be noted that Colombia has one of the largest IDP populations in the world. According to estimates, their total number may be as high as 1.4 million.

54. The Guiding Principles on Internal Displacement is an important document in that it sets out the rights and guarantees relevant to the protection of internally displaced persons in all phases of displacement. In this connection, the Special Rapporteur wishes to draw particular attention to Guiding Principles 10.2 and 11.2, under which internally displaced persons shall be protected against attacks against their settlements or camps and acts of violence intended to spread terror.

C. Violations of the right to life of persons belonging to national, ethnic, religious or linguistic minorities

55. The Special Rapporteur acted on behalf of a variety of persons belonging to national, ethnic, religious and/or linguistic minorities in their respective countries. Urgent actions were sent to the Governments of Bangladesh, Bolivia, China, Colombia, Honduras, Mexico and

Turkey. In addition the Special Rapporteur transmitted allegations of violations of the right to life to the Governments of Colombia and Slovakia. A cause for continuing concern is the situation of indigenous communities in various parts of Latin America. On 9 July 2001, the Special Rapporteur sent a joint urgent appeal with the Special Representative of the Secretary-General on human rights defenders in connection with the assassination of three indigenous leaders in Colombia. In a joint public statement on this issue, the two mandate-holders noted that, as of July 2001, eight indigenous leaders had reportedly been killed since the beginning of the year, emphasizing that these cases illustrated the vulnerability of the indigenous communities in Colombia. In Bolivia, the Special Rapporteur notes that members of the indigenous Chiquitano community in Santa Cruz de la Sierra have reportedly been threatened with death by groups active in the deforestation of the area. While on mission in Honduras, the Special Rapporteur also heard testimonies of killings and threats directed against indigenous leaders. She will present her findings from this mission in a separate report to the Commission.

56. For the Special Rapporteur's observations concerning the Kurdish community in Turkey, see addendum 1 to the present report.

D. Violations of the right to life of persons exercising their right to freedom of opinion and expression

57. The Special Rapporteur continues to receive reports of journalists who are being targeted for death threats and extrajudicial killings because of their work to uncover corruption, organized crime and human rights violations. During the period under review, the Special Rapporteur sent urgent appeals in relation to threats against persons exercising their right to freedom of expression, mostly journalists and participants in demonstrations, in the following countries: Colombia, India, Jamaica, Paraguay, Russian Federation, Sudan, Zimbabwe. The Special Rapporteur further transmitted allegations regarding violations of the right to life of persons exercising their right to freedom of expression in the following countries: Algeria (1), Bolivia (3), Colombia (2), Honduras (1), India (24), Indonesia (3), Jamaica (16), Papua New Guinea (4), Ukraine (1), Uzbekistan (1). Three cases were also submitted to the Palestinian Authority.

58. In June 2001, the Special Rapporteur sent an urgent appeal, together with the Special Rapporteur on the right to freedom of opinion and expression, regarding reports that five journalists in Colombia had received death threats and been declared "military targets" and "enemies of the peace" by elements of the paramilitary group "Autodefensas Unidas de Colombia". An urgent appeal was sent on 22 August 2001 to the Government of Zimbabwe, following reports that five journalists had received death threats and that their names appeared on a "hit list" allegedly drawn up by the State security services.

59. In this connection, the Special Rapporteur wishes to make reference to the allegation she submitted jointly with the Special Rapporteur on torture to the Government of India on 30 September 2001 regarding a peaceful protest march of Manjulai teaworkers that took place in Tirunveli, south Tamil Nadu on 23 July 1999. It was reported that 17 of the protesters died as a result of beatings and other ill-treatment by the police.

E. The right to life and the administration of justice

60. The Special Rapporteur took action on behalf of six individuals involved in or related to the administration of justice. Urgent appeals were sent to the following countries: Brazil, Colombia, Croatia, Ecuador, Guatemala, Peru. In this context, the Special Rapporteur further transmitted allegations of violations to the Government of Colombia.

61. The Special Rapporteur wishes to express her particular concern at the situation in Guatemala, where a number of lawyers, prosecutors and judges have received death threats in the past year. In March 2001, she sent a joint urgent appeal with the Special Rapporteur on the independence of judges and lawyers, following reports that Ms. Conchita Mazariegos, President of the Constitutional Court of Guatemala, had been subjected to intimidation and death threats. It was reported that unknown assailants had opened fire on her residence in Guatemala City on 24 March 2001. In its response to the Special Rapporteurs' letter, the Government stated that the case was being investigated and that Ms. Mazariegos had been provided with close protection. An urgent appeal was sent to the Government of Brazil on 29 January 2001, regarding the security of three public prosecutors who were bringing charges against 26 police officers and prison guards accused of torturing prisoners at a jail in the town of Sorocaba, Sao Paulo State. The prosecutors had reportedly received telephone calls warning them that they would be killed if they pursued these cases.

F. Violations of the right to life of members of sexual minorities

62. The Special Rapporteur has continued to receive serious reports of persons having been subjected to death threats or extrajudicially killed because of their sexual orientation. In this connection, she sent urgent appeals to the Government of Argentina, Ecuador and Mexico. A communication was also sent to the leadership of the province of "Puntland" in Somalia.

63. The urgent appeals sent to the Government of Ecuador related to death threats targeting members of non-governmental organizations active in the defence of the rights and freedoms of sexual minorities and in spreading awareness about HIV/AIDS. In March and April 2001, members of the organizations "Amigos por La Vida", "La Organización Pro Derechos Humanos Quitogay" and "La Comunidad Lesbiana, Gay, Bisexual and Transgendered Human Rights Organizations" (LGBT) reportedly received electronic mail messages in which they were told they would be killed. Similarly, the Special Rapporteur wrote to the Government of Argentina following reports that, on 17 February 2001 in Córdoba, four uniformed police officers entered with force and without showing a warrant the apartment of a member of the non-governmental organization "Asociación Travestis Unidas de Córdoba". Reportedly, the police had threatened to torture the person concerned to death. It is alleged that the division for internal investigation of the Córdoba police had failed to open an inquiry into the case, despite being notified of the incident. In its reply to the Special Rapporteur's letter, the Government of Argentina stated that investigations into the case had been initiated and that the relevant authorities had taken measures to ensure the safety and integrity of the person concerned.

64. The Special Rapporteur also transmitted an allegation jointly with the Special Rapporteur on torture to the Government of Jamaica, where 16 prisoners were reportedly killed and many injured in anti-gay attacks at the St. Catherine's District Prison and the Kingston General Penitentiary in August 1997 (see also chapter III, section F above).

65. The Special Rapporteur firmly believes that the death penalty, if it is to be prescribed, should be strictly limited to the most serious crimes, which have stood the test of time, without discrimination against people on the basis of their sexual orientation. In this connection, on 22 February 2001, she sent an urgent appeal to the leadership of the province of "Puntland" in Somalia, following reports that two women had been sentenced to death by a court in Bossasso for "exercising unnatural behaviour".

V. AREAS OF SPECIAL FOCUS

A. Violations of the right to life during armed conflict

66. The Special Rapporteur has continued to receive alarming reports of civilians and persons hors de combat killed in situations of armed conflict and internal strife in various regions of the world. During the period under review, the Special Rapporteur transmitted allegations of violations of the right to life to the Governments of Colombia, Myanmar, the Russian Federation and Sri Lanka. In this context, she also sent an urgent appeal to the Taliban Council

67. Over the past year, the Special Rapporteur has intervened on several occasions in relation to events in Afghanistan. On 16 February 2001, she issued a public statement expressing her deep concern over continuing reports of massacres and extrajudicial executions in Afghanistan. She had received reports indicating that, in January 2001, between 100 and 300 people, including at least one child and a number of humanitarian workers, had been killed by Taliban forces in connection with the recapture of Yakawolang in the Hazarajat region. It was alleged that foreign elements had been involved in these actions. Reports further suggested that a large number of civilians in Yakawolang had been summarily executed, as a form of collective punishment for their alleged opposition to the Taliban. At least two mass grave sites had allegedly been identified by the local population. Other reports indicated that at least six prisoners had been executed after summary trials in the province of Panjshir by forces controlled by Ahmad Shah Masood. It was alleged that some of these persons had been tortured before being executed. In her statement the Special Rapporteur recalled that in the previous two years there had been a series of large-scale killings in Afghanistan, which required the immediate attention of the international community. She stressed that all cases of alleged extrajudicial executions had to be investigated and the perpetrators brought to justice.

68. On 15 November 2001, the Special Rapporteur issued another statement noting that evidence was gradually emerging in Afghanistan clearly indicating that large numbers of unarmed civilians had been and were still being extrajudicially killed by Taliban forces and other warring factions. She noted that this evidence supported credible reports of such atrocities that had been filtering out of Afghanistan in recent years. The Special Rapporteur stressed that

there was an urgent need to ensure that those crimes were promptly and independently investigated, with a view to bringing those responsible to justice without delay. She further emphasized that there could be no impunity for those widespread and systematic killings, which might amount to crimes against humanity.

69. In her statement, the Special Rapporteur lastly expressed her conviction that a sustainable, just and stable peace in Afghanistan could only be achieved if those responsible for ordering and carrying out grave human rights violations were apprehended and held accountable for their crimes in trials that conform to international human rights standards.

70. The Special Rapporteur has continued to follow the situation in the Chechen Republic of the Russian Federation, where Russian government forces are reported to have committed grave human rights violations, including deliberate and targeted extrajudicial executions of unarmed civilians. During the present reporting period, she transmitted allegations regarding 60 cases of violations of the right to life, alleged to have been committed by Russian government forces in connection with the conflict in the Chechen Republic. In her communication to the Government, the Special Rapporteur made reference to reports that a mass grave containing the remains of 48 persons allegedly killed by Russian army and security forces had been discovered and exhumed in the Zdrovye settlement near Grozny. Joint communications were also sent with the Special Rapporteur on torture regarding cases in which civilians had allegedly died in detention as a result of torture and severe ill-treatment by Russian army and security forces.

71. The Special Rapporteur continues to receive a large number of reports of violence and extrajudicial killings attributed to armed opposition groups, militia elements and other non-State actors. It should be noted that the Special Rapporteur's mandate only allows her to intervene when the perpetrators are believed to be government agents or have a direct or indirect link with the State. However, the Special Rapporteur wishes to express her deep concern over atrocities committed by non-State actors, which constitute serious violations of basic humanitarian and human rights principles. Such violations are mentioned in the reports of the Special Rapporteur in order to give a clearer picture of the situation. She also remains concerned that some Governments have made use of excessive and indiscriminate force in their efforts to counter armed opposition groups, which in some cases has involved summary executions of captured combatants and has resulted in extensive civilian casualties and fatalities. The Special Rapporteur wishes to emphasize that the right to life allows for no derogations, not even in time of public emergency which threatens the life of the nation. This is particularly relevant in the light of developments after the events on 11 September 2001.

B. Deaths due to attacks or killings by security forces, paramilitary groups or private forces cooperating with or tolerated by the State

72. A cause for continued and deepening concern for the Special Rapporteur is the increasing incidence of large-scale extrajudicial killings carried out by government security forces and armed groups reported to be sponsored, supported or tolerated by Governments. During the period under review, the Special Rapporteur transmitted allegations on behalf of more than 400 individuals killed by security forces, by paramilitary groups or private forces to the

Governments of Bangladesh (1), Colombia (223), India (9), Indonesia (12), Israel (24), Jamaica (1), Myanmar (114), Pakistan (1), Nicaragua (1), Nigeria (over 100), the Russian Federation (10) and Sri Lanka (3). In this context, she also sent urgent appeals to the Governments of Bolivia, Colombia, Ecuador, Indonesia, Israel and Turkey.

73. The situation in Myanmar is alarming and requires immediate international attention. Grave abuses continue to be committed unabated. Reports describe harrowing scenes in which government soldiers summarily execute civilians, with complete impunity. During the period under review, the Special Rapporteur transmitted to the Government allegations of 114 extrajudicial killings attributed to government soldiers. Fifty-two of these persons were women, many of whom were reportedly gang-raped and tortured before being beaten or shot dead. Eighteen of the victims were allegedly children under the age of 18, with the two youngest ones being only four years of age.

74. The allegation transmitted to the Government of Nigeria related to a massacre of more than 100 people, allegedly carried out by government soldiers in villages along the border between Benue and Taraba states around 22 October 2001. More recent reports put the number of victims at more than 200. The killings, which reportedly went on for three days, were apparently in reprisal for the murder of 19 soldiers in that region earlier the same month.

75. In Jamaica, on 8 June 2001, Richard Williams was reportedly apprehended by police officers in Spanish Town Road in Kingston. It is reported that Williams' mother ran to the scene when she heard her son scream. Allegedly, she found a group of police beating her son on the ground. When she tried to stop the ill-treatment, the police allegedly beat her, to the extent that she required medical attention. It is alleged that Williams' mother witnessed the police officers shooting her son dead, after he had been beaten to the ground. In its reply of 30 November 2001, the Government stated that an investigation into this case had been carried out by the Bureau of Special Investigations of the Jamaica Constabulary Force. It added that details of this inquiry could not be released until the Director of Public Prosecutions issued a ruling regarding criminal liability. According to the Government, the police officers accused of this act had been identified, but no penal or disciplinary sanction could be imposed until the matter was fully ventilated in the Criminal Court.

76. With regard to the situation in Colombia, the Special Rapporteur has intervened in hundreds of cases in which paramilitary groups, most notably the "Autodefensas Unidas de Colombia", have carried out extrajudicial killings of large numbers of civilians. The cruelty and brutality of these defy description. There are allegations that some of these acts have been carried out with the acquiescence of government forces. The Special Rapporteur wishes to reiterate her call to the Government of Colombia, voiced in so many of her letters and urgent appeals, to take immediate steps to fulfil its international legal obligation to protect the population in the affected areas from more violence and suffering.

77. The Special Rapporteur has continued to follow the situation in the occupied territories and Israel with deepening concern. The spiral of violence and revenge must be broken. The allegations transmitted to the Government of Israel describe cases of the indiscriminate use of force, in which ordinary civilians, including women and children, were shot dead when they were taking shelter in their homes, waiting at checkpoints in their cars or simply walking down

the street. The practice of killing persons belonging to various Palestinian organizations in so-called "pre-emptive" strikes by Israeli forces must be condemned as a grave human rights violation. The Special Rapporteur also intervened in three cases of killings of civilians, including one minor, due to indiscriminate and excessive use of force, including firearms, by security forces controlled by the Palestinian Authority.

78. The Special Rapporteur notes with growing alarm that in some countries the unofficial use of irregular forces appears to have become part of government policies and counter-insurgency campaigns. Such groups are usually supported or directed by the military or civilian intelligence services, which often results in systematic impunity for the perpetrators of grave human rights abuses. The Special Rapporteur fears that the increasing role of the intelligence agencies in many countries may lead to policies which could be detrimental to the security of human life. This apprehension has increased after the terrorist attack of 11 September in the United States.

C. Impunity, compensation and the rights of victims

79. For a more detailed discussion regarding the issue of impunity and compensation and rights of victims, the Special Rapporteur wishes to make reference to her earlier reports, in which she has addressed these questions at length (for example, E/CN.4/2000/3, chap. V, sect. E, and E/CN.4/2001/9, chap. V, sect. C).

80. It is a cause for grave concern that in some countries impunity for serious human rights violations, including extrajudicial killings, has become systematic and institutionalized. This is particularly the case when impunity is the direct product of laws explicitly exempting public officials, parliamentarians or certain categories of State agents from accountability or prosecution for grave human rights abuses. During her visits to countries the Special Rapporteur has noted that laws providing immunity to Parliamentarians and other public officials have tempted many leaders of criminal gangs to enter politics simply to hide behind such laws. Such regulations are not uncommon in countries facing internal unrest where the security forces are given far-reaching powers to address the situation. Impunity can also arise from amnesty laws passed in the interest of political stability and national reconciliation.

81. In many countries, impunity is the result of a weak and inadequate justice system, which is either unwilling or unable to investigate and prosecute cases of grave human rights violations, including violations of the right to life. In some instances, the judiciary may be strongly influenced or even coerced by the executive. In others, military and security forces simply ignore or overrule court decisions.

82. In order to overcome impunity, Governments need to show both political will and moral courage to confront human rights abuses by ensuring that strong, independent and effective institutions and mechanisms are in place to bring perpetrators to justice. Non-governmental organizations have an important advocacy role in supporting such efforts. The international community also has the responsibility to combat systematic and widespread human rights violations by strengthening institutions with universal jurisdiction. At the time of writing, the Statute of the International Criminal Court had been ratified by 46 and signed by 139 States.

The Statute will enter into force on the first day of the month after the sixtieth day following the date of deposit of the sixtieth instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations. The Court has the potential of serving as a powerful weapon in the fight against impunity for grave human rights violations, including extrajudicial, summary or arbitrary executions. The Special Rapporteur again urges Governments to proceed to ratification as soon as possible.

D. Violations of the right to life of children

83. During the period under review, the Special Rapporteur sent urgent appeals on behalf of 13 identified children under the age of 18 and several groups of minors to the Governments of Brazil, Colombia, the Democratic Republic of the Congo, Guatemala, India, Iran, Israel, Jamaica and the United States of America. She also sent one urgent appeal to the Taliban Council. In this context, the Special Rapporteur took action with regard to three persons who were facing imminent execution in the United States of America, after having been sentenced to death for crimes committed when they were under 18 years of age. For a more detailed discussion of this issue, reference is made to section F of this chapter. The Special Rapporteur further transmitted allegations of violations of the right to life of 38 minors to the Governments of the following countries: Colombia (6), Honduras (2), Indonesia (2), Israel (2), Jamaica (1), Myanmar (18), Nicaragua (2), Paraguay (4), the Sudan (1). In this context, the Special Rapporteur also transmitted one allegation to the Palestinian Authority.

1. State violence and impunity

84. In her report to the Commission on Human Rights at its fifty-seventh session, the Special Rapporteur made reference to reports of extrajudicial killings of children in Honduras, Guatemala and Nicaragua. In many of these cases, street children and members of youth gangs were reported to have been murdered with impunity. The majority of these acts are attributed to private vigilante groups or units of off-duty police and military.

85. As noted in chapter II of the present report, in August 2001 the Special Rapporteur carried out a visit to Honduras upon the invitation of the Government. During the mission, the Special Rapporteur received documented reports of 66 minors under the age of 18 who were killed in the first six months of 2001. Government records showed that some of these children were killed by security forces and the Special Rapporteur received assurances that the perpetrators would be brought to justice. She observed that a number of those killings remained unresolved. Concerns were expressed that the authorities had not taken prompt and effective action to prevent and investigate these killings. The Special Rapporteur will report separately on her findings to the Commission.

86. In the past year, the Special Rapporteur has also received allegations regarding killings, violence and threats against children in Guatemala. It was reported that on 30 January 2001, two 14-year-old girls were sexually abused by two police officers in Guatemala City. Allegedly, after having raped the girls, the policemen threatened to kill them if they revealed to anyone what had happened. On 14 February 2001, a joint urgent appeal was sent together with the

Special Rapporteur on violence against women, its causes and consequences, in which the Government was urged to take immediate steps to ensure the safety and integrity of the two girls and to bring the perpetrators to justice. The Special Rapporteur eagerly awaits further information on this matter.

87. On 29 May 2001, the Special Rapporteur sent an urgent appeal regarding the case of Janice Allen, a 13-year-old girl, who was reportedly shot dead by police officers in Jamaica the year before. It was alleged, that after the murder, the policemen in question had threatened to kill Janice Allen's family.

88. The situation of children is a matter of great concern to the Special Rapporteur. In many parts of the world children under the age of 18 constitute more than half of the entire population. This large section of the world's population is discriminated against at all levels, which may result in situations where children's lives are put at risk. The figures showing the rate of child mortality are only one sad example. Another apparent example is the distribution of national resources in many countries, which is disproportionate to the number of children in those countries and grossly inadequate to protect their rights. It has posed two obvious problems. First, children are exploited, and sucked into gang wars and organized crime. Second, State functionaries add to this exploitation by abusing marginalized children on the justification of ending violence in society. Numerous reports indicate that the police systematically and routinely fail to report killings of children to the judicial authorities, and often disregard these cases as part of gang wars and organized crime. In cases where investigations are initiated, they allegedly often fall short of minimum requirements as regards forensic documentation and post-mortem examination. This climate of impunity is further perpetuated by the lack of official condemnation and a prejudiced attitude on the part of the media, which often refer to these killings as "social cleansing operations" and portray the victims as "social undesirables". In order to find sustainable solutions to the plight of street children, it is important that their situation is not considered as primarily a law enforcement or criminal justice issue. Policies and action are needed to identify and address the underlying causes of this problem, which include a wide range of social and economic issues, in particular the marginalization of and lack of opportunities available to the most disadvantaged segments of society. However, these measures will be of little lasting value if strong mechanisms for the protection of children's rights are not put in place.

2. Children in armed conflict

89. Since her appointment, the Special Rapporteur has devoted a section of her reports to the Commission on Human Rights and the General Assembly to the issue of children in armed conflict (see, for example, E/CN.4/2001/9, chap. V, sect. D). Reports indicate that many children are directly engaged in combat or in other extremely hazardous activities, such as laying or clearing landmines. Moreover, wherever minors are used as fighters, all children are put at risk as they are seen as potential enemy soldiers.

90. The situation is particularly alarming in many African and Asian countries. It is estimated that around 120,000 minors are engaged in armed activities in Africa alone. The armed conflicts in central and western Africa are cases in point. Reports from Burundi indicate that, on 7 November 2001, around 54 children aged between 12 and 15 were abducted by the

armed political group National Council for the Defence of Democracy - Forces for the Defence of Democracy (CNDD-FDD). Another 250 children were reportedly abducted by the same group on 9 November 2001 from a boarding school in Kayanza province. There are fears that the motive for these abductions was to recruit the children forcibly as soldiers for the CNDD-FDD. In Asia, some of the worst situations are reported in Afghanistan and Myanmar, where children have routinely been recruited for many years. As the targeting and killing of civilians appear to have become part of military tactics in most of today's conflicts, children are increasingly deliberately killed in connection with bombardments or attacks aimed at terrorizing and demoralizing the civilian population. It is estimated that, in the past 10 years, more than 2 million children have died as a result of armed conflict.

E. Violations of the right to life of persons carrying out peaceful activities in defence of human rights and freedoms, and persons who have cooperated with representatives of United Nations human rights bodies

91. The Special Rapporteur has continued to receive reports of death threats or extrajudicial killings directed against human rights activists, lawyers, community workers, teachers, journalists and other persons engaged in activities aimed at promoting human rights or publicizing human rights violations. In reaction to these reports, the Special Rapporteur transmitted urgent appeals, requesting the Governments concerned to take necessary measures to protect these persons' right to life. Such appeals were sent to the Governments of Argentina, Bolivia, Colombia, Croatia, Dominican Republic, Ecuador, Georgia, Guatemala, Honduras, India, Mexico, Nicaragua, Turkey and Uzbekistan. In addition to urgent actions on behalf of individuals, the Special Rapporteur also sent appeals with regard to threats against human rights organizations and institutions. During the period under review, the Special Rapporteur further transmitted allegations of violations of the right to life of 68 human rights defenders in Colombia, Indonesia, Mexico and Uzbekistan.

92. The situation in Colombia is a cause for deep concern. In the period under review, the Special Rapporteur transmitted allegations of the extrajudicial killings of 19 human rights defenders in that country. It is reported that in the period from January to October 2000, no less than 112 trade unionists were killed, while 63 others disappeared. Thirty-two teachers were allegedly killed in the first six months of 2000. During the period under review, the Special Rapporteur sent urgent appeals on behalf of 35 human rights defenders who had received death threats or been attacked in Colombia.

93. With regard to Mexico, the Special Rapporteur wishes to take special note of the case of Ms. Digna Ochoa y Placido, a renowned human rights defender and lawyer, who was assassinated in Mexico City on 19 October 2001. A note left at the scene of the murder warned other members of the Miguel Agustín Pro Juárez Human Rights Centre in Mexico that more killings could follow. On 24 October 2001, the Special Rapporteurs on the independence of judges and lawyers, on torture and on extrajudicial, summary or arbitrary executions and the Special Representative of the Secretary-General on human rights defenders issued a joint statement calling on the Government of Mexico to carry out prompt and thorough investigations with a view to bringing the perpetrators to justice without delay. They noted that the murder of Ms. Ochoa demonstrated the vulnerability of human rights defenders and underlined the need for strengthening measures for their protection. Subsequently, several well-known human rights

defenders in Mexico have received death threats, believed to be connected to the case of Ms. Ochoa. Immediately after the murder of Ms. Ochoa, the Government of Mexico wrote to the Special Rapporteur explaining the urgent steps the authorities had taken to investigate the case and to ensure the security of human rights workers. The Special Rapporteur appreciates the opportunity to continue her dialogue with the Government regarding this issue. She believes that protection alone will not be enough, unless proper investigations are carried out, so that the suspects are identified and brought to justice.

94. On 4 January 2001, the Special Rapporteurs on extrajudicial, summary or arbitrary executions, on the independence of judges and lawyers, and on the situation of human rights in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia, sent an urgent appeal regarding Mr. Srdj Jaksic. Mr. Jaksic, a prominent human rights lawyer, was the target of an assassination attempt by three masked men on 30 December 2000 outside his home in Dubrovnik. He was seriously wounded as a result of the attack. It was further reported that on 31 December 2000, his wife and eight-year-old daughter were attacked by an unknown assailant. In its reply of 12 January 2001, the Government of Croatia stated that the case was being investigated and that adequate steps were being taken to protect the life and physical integrity of Mr. Jaksic and his family. In view of past experiences where human rights defenders lost their lives after being attacked, the Special Rapporteur hopes that adequate protection will be provided and diligent investigation carried out by the Government.

95. In this context, the Special Rapporteur also wishes to take note of the situation of Ms. Eren Keskin in Turkey, who has received death threats on repeated occasions because of her work as a lawyer and human rights defender. The Special Rapporteur had the opportunity to meet with Ms. Keskin during her visit to Turkey in February 2001. For more details on this case, see addendum 1 to the present report, containing the Special Rapporteur's observations and conclusions on her mission to Turkey.

F. Capital punishment

96. While capital punishment is not banned under international law, it must under all circumstances be regarded as an extreme exception to the fundamental right to life, and must as such be applied in the most restrictive manner possible. It is also imperative that all restrictions and fair trial standards pertaining to capital punishment contained in international human rights instruments are fully and consistently respected in legal proceedings relating to capital offences.

97. In the discharge of her mandate, the Special Rapporteur takes action in cases of capital punishment in which there is reason to believe that international restrictions, which are discussed in the paragraphs below, are not respected. In such cases, the carrying out of a death sentence may constitute a violation of the right to life.

98. The experience of the mandate in regard to respect of restrictions and standards pertaining to the use of the death penalty has not been encouraging. Many retentionist countries do not have independent legal systems to ensure that these restrictions are respected. At the

same time, the imposition of capital punishment continues. The Special Rapporteur has on several occasions called for better transparency relating to the death penalty and its execution. No reliable statistics are available in a number of countries, and there is little information regarding domestic guidelines ensuring that the relevant safeguards are being observed.

99. Most countries with a mature legal system have abolished the death penalty. Others amongst them which retain it find it difficult to ensure that all restrictions and standards guaranteeing fair trial are met in each and every case. The Special Rapporteur and her predecessor have tried to emphasize the fallibility of even the best of legal systems. These efforts have brought some response. The courts and mechanisms for clemency in national jurisdictions are increasingly becoming cautious in passing or confirming death sentences. In this connection, the Special Rapporteur would like to draw attention to a number of cases in the United States, in which courts have stayed executions in order to examine alleged violations of restrictions on the use of capital punishment or irregularities in trials leading up to a death sentence. Following the trend, the State of North Carolina passed a law banning the death penalty for mentally disturbed persons. These cases will be discussed in closer detail in the paragraphs below. Another positive development is the ruling of the Eastern Caribbean Court of Appeal holding the mandatory death penalty to be unconstitutional.

100. The Special Rapporteur welcomes the statement by President Vladimir Putin of the Russian Federation during a visit to Washington D.C., in which he reportedly declared his personal opposition to the death penalty and confirmed that the Russian Federation would continue to respect the de facto moratorium it has maintained for the last five years. The Special Rapporteur strongly recommends that the Government of the Russian Federation now proceed without delay to abolishing capital punishment in domestic law and to ratifying Protocol 6 of the European Convention on Human Rights.

101. The Special Rapporteur wishes to thank the Government of China for the comprehensive replies it has submitted in relation to some cases raised in her communications. She takes particular note of the Government's letter of 21 November 2000, in which it gives a detailed overview of the Chinese justice system in relation to capital offences. In that letter, the Government emphasizes that capital punishment is applied in strict compliance with China's international obligations. Accordingly, the death penalty is used only in relation to "most serious crimes", and never for juvenile offenders or expectant mothers. Defendants have the right to legal counsel, appointed by the court if they have no trusted lawyer. They have the right to appeal their sentences, and those not subject to immediate execution may receive a death sentence with a two-year reprieve. Defendants may have the sentence commuted to life imprisonment if they do not commit new intentional crimes within those two years. If a prisoner "renders outstanding service", he or she may have the sentence reduced to 15 to 20 years in prison. According to the Government's letter, this system has effectively reduced the number of executions: in recent years some 99 per cent of criminals sentenced to death have benefited from commutation under this scheme. In its letter the Government also expresses the view that, "following a historical trend, the death sentence, as a most ancient form of legal penalty, will eventually be abolished throughout the world". The Government notes, however, that abolition that surpasses a particular stage of social development will inevitably lead to a range of social

problems, and even have consequences that are contrary to the original purpose of promoting and protecting human rights. The Government adds that abolition depends on where the security interests of the great majority of the people lie, and on whether it is conducive to ensuring their human rights. Therefore, the Government concludes, States should decide on the matter of abolition according to their specific conditions and respecting the will of the people. The Special Rapporteur, nevertheless, continues to be concerned at the situation in China, where a growing number of people have allegedly been sentenced to death for corruption, embezzlement, bribery and other non-lethal crimes. Many executions are reportedly carried out in public by firing squad, in front of large crowds in sports stadiums and public squares.

1. Restrictions on the use of the death penalty

102. Capital punishment for juvenile offenders is prohibited under international law. The Convention on the Rights of the Child, which has been ratified by all States, except the United States of America and Somalia, clearly excludes the use of the death penalty for crimes committed by persons under the age of 18. Moreover, article 6.5 of the International Covenant on Civil and Political Rights stipulates that the death penalty shall not be imposed for crimes committed by persons below 18 years of age. In this connection, the Special Rapporteur also wishes to draw attention to resolution 200/17, adopted on 17 August 2000 by the Sub-Commission on the Promotion and Protection of Human Rights. In that resolution, the Sub-Commission condemned unequivocally the imposition of the death penalty on those aged under 18 at the time of the commission of the crime.

103. According to information received, in the United States of America around 85 persons are currently under sentence of death for crimes committed when they were under the age of 18. One third of these juvenile offenders are reportedly held in the State of Texas alone. The Special Rapporteur has been informed that 23 states retain legislation allowing for the death penalty to be imposed on juvenile offenders. However, only 15 of them are reported to have juvenile offenders in detention awaiting execution.

104. During the present reporting period the Special Rapporteur took action on behalf of three juvenile offenders facing the death penalty in the United States. On 26 February 2001, she sent an urgent appeal regarding the case of Antonio Richardson, who was scheduled to be executed in the State of Missouri on 7 March 2001. He was reportedly sentenced to death in 1993 for a crime committed when he was 16 years of age. It was further reported that Richardson has limited mental ability and suffers from mental illness, considerations which were allegedly not brought to the attention of the jury in connection with his trial. In March 2001, the United States Supreme Court ordered a stay of Antonio Richardson's execution. The case was put on hold, pending the Supreme Court's consideration of the case of Ernest McCarver, a mentally disabled man sentenced to death in North Carolina. The Supreme Court was to decide whether the execution of prisoners with mental disabilities violates the Eighth Amendment to the United States Constitution prohibiting cruel and unusual punishment. As will be discussed below, in September 2001, the Supreme Court dismissed McCarver's case as moot. In Richardson's case, there is an additional petition before the Supreme Court that challenges his death sentence on the grounds of his age. On 10 July 2001,

the Special Rapporteur wrote to the Government of the United States in relation to the case of Napoleon Beazley, an African American, who was scheduled to be executed in the State of Texas on 15 August 2001. It was reported that Beazley has been sentenced to death for a murder committed in 1995, when he was 17 years old. In this case, concern had also been expressed regarding the composition of the jury. It was alleged that, although the trial was being held in Smith County, which reportedly has a 20 per cent African American population, all the jury members were white. On 10 July 2001, the Texas Court of Appeals ordered a stay of Beazley's execution, so as to allow it to consider allegations that he had not received adequate legal counsel from his first appellate attorney. On 24 September 2001, an urgent appeal was sent concerning the case of Gerald Lee Mitchell, an African American who was scheduled to be executed in Texas on 22 October 2001. Mitchell was reportedly sentenced to death in 1986, allegedly before an all-white jury, for a murder committed in 1985, when he was 17 years of age. Gerald Lee Mitchell was executed as scheduled on 22 October 2001.

105. The Special Rapporteur wishes to thank the Government of the United States of America for its timely and comprehensive replies to her urgent appeals concerning death penalty cases. In its reply concerning the case of Gerald Lee Mitchell by letter of 19 October, the Government noted, *inter alia*, that the execution of a 16- or 17-year-old offender was not a violation of United States obligations under the International Covenant on Civil and Political Rights, as the United States had made a valid, effective reservation to provisions on this matter in article 6.5, which prohibits the execution of juvenile offenders. The Government further stated that there was no customary international legal principle prohibiting the execution of 16- and 17-year-old offenders, adding that "In sum, the United States cannot be bound by any international legal principle purporting to prohibit the execution of juvenile offenders given its persistent objection to the application of any such standards to the United States."

106. The Special Rapporteur sent an urgent appeal to the Government of Iran on 27 June 2001 regarding reports that an Iranian court had sentenced to death Azizullah Shenwari, a 14-year-old Pakistani national. It appears that the boy was convicted on drug charges. In the same appeal, the Special Rapporteur also referred to reports that Mehrad Yusefi, 18 years of age, had been executed in a prison in the south-western region of Ilam. It is alleged that he was convicted for a crime committed when he was 16 years old. While the Government has not replied to this particular communication, in a separate letter of 17 April 2001, commenting on the Special Rapporteur's report to the fifty-seventh session of the Commission, the Government stated that under the Islamic Penal Code, no person under the age of 18 is sentenced to death.

107. On 25 June 2001, the Special Rapporteur sent an urgent appeal to the Government of India regarding the case of Ram Deo Chauhan, who had reportedly been sentenced to death for the murder of four members of the family he worked for. Chauhan was a child domestic worker. According to information received, there was strong evidence that Ram Deo Chauhan was 15 years of age when the crime was committed. He was reportedly sentenced to death by an ordinary court in Assam in March 1998. It was further alleged that the Supreme Court upheld the sentence, stating that in the light of the cruelty of the murders, youth was not a mitigating circumstance warranting the imposition of a reduced sentence.

108. The Special Rapporteur also sent an urgent appeal to the Government of the Democratic Republic of the Congo on 1 May 2001 regarding a case of four former child soldiers, Diyavanga Nkuyu (17 years old), Mbumba Ilunga (17), Mwati Kabwe (16) Jean-Louis Bosey (16), who reportedly were sentenced to death by the Court of Military Order (La Cour d'Ordre Militaire de la Republique Démocratique du Congo). It was reported that the court tried the four in their capacity as army soldiers, without taking their age into consideration. It appears that sentences passed by the military court cannot be appealed. The Special Rapporteur understands that the sentences were subsequently commuted to life imprisonment and later reduced to five years by an order of the President. On 20 August, the Special Rapporteur sent another urgent appeal to the Government of the Democratic Republic of the Congo, concerning Babuyu Oleko, a 17-year-old child soldier, who was reportedly sentenced to death by the Court of Military Order on 10 January 2001.

109. In her previous report to the Commission, the Special Rapporteur took note of the reply of the Government of Yemen to a questionnaire on the use of the death penalty the Special Rapporteur sent out in July 1999. In its letter, the Government of Yemen stated that it was in the process of enacting a law that sets the age-limit for juveniles at 18, and under which death sentences would not be imposed on children under the age of 18. The Special Rapporteur urged the Government of Yemen to carry out this reform without delay. By letter of 5 April 2001, the Government of Yemen informed her that the proposed amendment prohibiting the death penalty for juveniles under the age of 18 was being debated by Parliament, after which this reform would be promulgated by Presidential Decree.

110. In resolution 1989/64 the Economic and Social Council recommended that States strengthen the protection of the rights of those facing the death penalty by eliminating the death penalty for persons suffering from mental retardation or extremely limited mental competence. Moreover, the Safeguards guaranteeing protection of the rights of those facing the death penalty stipulate that the death penalty shall not be carried out on persons who have become insane. The Special Rapporteur strongly supports these recommendations and urges States to take action to reflect these restrictions in domestic law. She further believes that at times old age can bring infirmity which may impact on a person's mental and physical competence.

111. During the period under review, the Special Rapporteur sent urgent appeals on behalf of six persons in the United States and one in Yemen who were facing execution after having been sentenced to death despite indications that they were suffering from mental illness or disability.

112. In reply to the Special Rapporteur's urgent appeal in the case of Mr. Hussein al-Mu'ammari, the Government of Yemen stated that his case had passed through the legally prescribed stages and procedures, including the Supreme Court of Yemen. None of the courts concerned had found the defendant to be mentally disturbed, nor had any irregularities in the trial proceedings been detected.

113. On 25 September 2001, the United States Supreme Court dismissed as moot the case of Ernest McCarver, referred to above. The Special Rapporteur has been informed that after the Supreme Court agreed to review the case of McCarver, the State of North Carolina passed a law banning death sentences for mentally disabled persons. While this law reportedly applies retroactively, already passed death sentences will apparently not be automatically commuted.

114. The Special Rapporteur is deeply concerned that in a number of countries the death penalty is imposed for crimes which do not fall within the category of "the most serious crimes", as stipulated in article 6, paragraph 2 of the International Covenant on Civil and Political Rights. Moreover, paragraph 1 of the Safeguards guaranteeing protection of the rights of those facing the death penalty states that the scope of crimes subject to the death penalty should not go beyond intentional crimes with lethal or other extremely grave consequences. The Special Rapporteur is strongly of the opinion that these restrictions exclude the possibility of imposing death sentences for economic and other so-called victimless offences, actions relating to prevailing moral values, or activities of a religious or political nature - including acts of treason, espionage or other vaguely defined acts usually described as "crimes against the State". The Special Rapporteur is concerned at the imposition of a mandatory death penalty for crimes which do not constitute "most serious crimes", or where fair trial standards were not respected. In many cases, the mental or physical state of the offender is not taken into consideration, nor are expectant mothers excluded from such a sentence. Some laws calling for a mandatory death penalty are also vague.

115. In this connection, on 7 November 2001 the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on violence against women, its causes and consequences, to the Government of Nigeria regarding the case of Ms. Safiya Hussaini Tungar-Tudu, who was reportedly sentenced to death by stoning by a court in Gwadabawa in the State of Sokoto, for having had pre-marital sex. It may be noted that Ms. Tungar-Tudu was reportedly pregnant at that time, and that her alleged partner was acquitted by the same court, because it supposedly lacked sufficient evidence to prosecute him.

116. Furthermore, on 17 January 2001 a joint urgent appeal was sent with the Special Representative on the situation of human rights in Iran regarding the case of Mostafa Nikbakt, who reportedly was sentenced to death by the Court in Orumieh for having written slogans against the country's leader. In a letter to the Special Rapporteur of 17 April 2001, already referred to above, the Government of Iran stated, referring to the case of Nikhbakt, that such offences, if proved in a court of law, would carry a jail sentence of between six months and two years. In the same letter, the Government also stated that Akbar Mohammadi, who was arrested during a student demonstration, referred to in the Special Rapporteur's previous report (E/CN.4/2000/9/Add.1, para. 245), had not been sentenced to death as suggested in the report, but had received a 15-year prison sentence.

117. Another cause for concern is the manner in which death sentences are executed. Public hangings and other inhuman forms of execution continue to be practised in many countries. The Special Rapporteur wishes to recall that paragraph 9 of the Safeguards guaranteeing protection of the rights of those facing the death penalty stipulates that "Where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering".

118. In this connection, on 23 January 2001, an urgent appeal with the Special Representative on the situation of human rights in Iran and the Special Rapporteurs on torture and on violence against women, its causes and consequences, was sent to the Government of Iran regarding the case of Ms. Maryam Ayoubi, who had reportedly been sentenced to death by stoning.

2. Fair trial

119. It is imperative that legal proceedings in relation to capital offences conform to the highest standards of impartiality, competence, objectivity and independence of the judiciary, in accordance with the pertinent international legal instruments. Defendants facing the imposition of capital punishment must fully benefit from the right to adequate legal counsel at every stage of the proceedings, and should be presumed innocent until their guilt has been proved beyond a reasonable doubt. These safeguards must be implemented in all cases without exception or discrimination. It is further crucial that such legal proceedings consistently respect and ensure the right of review of both the factual and legal aspects of the case by a higher instance, which should be composed of judges other than those who dealt with the case at first instance. Furthermore, there can be no exception to the defendant's right to seek pardon, clemency or commutation of the sentence. In this connection, reference is made to the recommendation made by the Economic and Social Council in its resolution 1989/64 of 24 May 1989 entitled "Implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty", that Member States provide for mandatory appeals or review with provisions for clemency or pardon in all cases of capital offence.

120. The Special Rapporteur notes that, on 2 April 2001, the Eastern Caribbean Court of Appeal ruled that the mandatory death penalty in Caribbean countries is unconstitutional. The decision is effective in the seven countries under the Court's jurisdiction: Antigua and Barbuda, Dominica, Grenada, Montserrat, St. Kitts and Nevis, St. Lucia, and St. Vincent and the Grenadines, as well as in the British Independent Territory of Anguilla. The Court issued its ruling in relation to two cases, originating in St. Vincent and the Grenadines and St. Lucia respectively, referred to it by the Judicial Committee of the Privy Council in London.

121. During the period under review, the Special Rapporteur intervened in three cases under the jurisdiction of the Palestinian Authority, in which the defendants were reported to have been sentenced to death in trials falling short of international fair trial standards, or had been denied their right to appeal their sentences. She also sent urgent appeals on behalf of persons in Jordan, Pakistan, Tajikistan and Uzbekistan, who had allegedly been sentenced to death after having been tortured during interrogation and deprived of their right to a fair trial. A joint appeal with the Special Rapporteur on the independence of judges and lawyers was also sent to the Government of Viet Nam, concerning Mr. Bui Huu Tai, who according to reports, had been sentenced to death without having access to legal counsel. In its reply, the Government stated that Mr. Bui Huu Tai had been assisted by three defence attorneys during his trial.

122. The practice of setting up special tribunals or jurisdictions in response to situations of internal conflict or other exceptional circumstances may also have serious implications for the defendants' right to a fair trial. The judges appointed to such tribunals are often closely connected and at times directly accountable to the law enforcement authorities or the military. Such tribunals are often established in order to expedite trials, which may result in hastily imposed death sentences. There are reports of serious violations of fair trial standards in connection with proceedings before special tribunals, particularly with regard to the independence and impartiality of the judiciary.

123. The Special Rapporteur is also concerned at the situation of foreigners on death row in the United States of America who reportedly have been sentenced without being informed of their right under article 36 of the Vienna Convention on Consular Relations to receive legal assistance from their respective consulates. On 6 June 2001, the Special Rapporteur sent an urgent appeal to the Government of the United States regarding the case of Gerardo Valdez Maltos, a Mexican national who was scheduled to be executed in Oklahoma on 19 June 2001. In addition to allegations of inadequate legal assistance and indications that Maltos is mentally impaired and ill, it appeared that he was never informed of his right as a foreign national to seek assistance from his consulate. Reportedly, the Government of Mexico was unaware of Maltos' case until 19 April 2001, when he had already been sentenced. On 10 September 2001, the Oklahoma Court of Criminal Appeals granted an indefinite stay of execution to Gerardo Valdez Maltos.

3. Desirability of the abolition of the death penalty

124. The Special Rapporteur has already expressed her deep concern regarding the lack of capacity in a number of retentionist countries to observe relevant safeguards and limitations when applying the death penalty. In retentionist countries with a strong legal system, overall safeguards required to ensure a fair trial have often been found missing on appeal, and even after the appeal stage. This raises the possibility that cases which have not been pursued vigorously escape the attention of the legal system and civil society.

125. The decision by the international community not to include the death penalty in the Rome Statute of the International Criminal Court is noteworthy. The imposition of the death penalty is not contemplated for the most serious crimes that will be tried by the International Criminal Court envisaged by the Rome Statute. Its imposition at the national level, then, for crimes of a less serious nature would run counter to the principle of the proportionality of penal sentences to the seriousness of the offence. The Special Rapporteur therefore believes that if the principle of equality and equity is to be maintained, then all crimes lesser in gravity to those enumerated in the Rome Statute should not be awarded capital punishment.

126. There is an emerging global trend towards limiting the use of capital punishment. Some 75 countries and territories have abolished the practice, and around 30 have not carried out the death penalty in the past 10 years. In some retentionist countries, the application of the death penalty has decreased remarkably.

VI. FOLLOW-UP TO RECOMMENDATIONS

127. In its resolution 2001/45 the Commission on Human Rights requested the Special Rapporteur to follow up on recommendations made in her reports after visits to particular countries. Consistent and adequate follow-up to recommendations is indeed a crucial element in the discharge of the Special Rapporteur's mandate. However, she regrets that the resources placed at her disposal have so far not allowed her to engage in a serious and systematic dialogue with Governments regarding this issue. She wishes, nevertheless, to take this opportunity to present a few observations in follow-up to her earlier field missions.

128. Since her appointment, the Special Rapporteur has undertaken six country visits. The first mission was to the former Yugoslav Republic of Macedonia and Albania from 23 to 28 May 1999. The purpose of this visit was to assess the situation in Kosovo. Her second mission was to Mexico from 12 to 24 July 1999. Pursuant to resolution S-4/1 adopted by the Commission on Human Rights during its special session on East Timor, the Special Rapporteur undertook a joint mission from 4 to 10 November 1999 with the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, its causes and consequences. From 5 to 14 February 2000, she visited the Kingdom of Nepal. The last two missions were to Turkey from 19 February to 1 March 2001 and to Honduras from 6 to 16 August 2001. The Special Rapporteur wishes to take this opportunity to thank the Governments concerned for having facilitated these missions.

129. After her mission to the neighbouring areas around Kosovo, the Special Rapporteur presented a number of preliminary observations and recommendations regarding the situation. In her report (E/CN.4/2000/3/Add.2), the Special Rapporteur supported the presence of the international community in the area for collecting reliable information about reported human rights violations. She called for investigation and prosecution of those involved in systematic and calculated killings. She stressed that the independence of legal processes initiated in an atmosphere of outrage and hostility had to be ensured. The Special Rapporteur warned that the challenges in rebuilding a traumatized society would be enormous, particularly if reprisals were not brought to an end. Finally, the Special Rapporteur suggested that there should be a heightened debate on key issues, inter alia the involvement of the international community in crisis situations and the urgency of devising creative preventive action strategies.

130. She notes that some progress has been made to bring those responsible for atrocities in Kosovo to justice. However, many of the key suspects are still at large in the Federal Republic of Yugoslavia, while new evidence of large-scale extrajudicial killings is being collected and discovered on the ground. It is the responsibility of the Government of the Federal Republic of Yugoslavia to ensure that those who ordered and carried out these crimes are not allowed to go unpunished. In Kosovo itself, a further step towards normality was taken with the parliamentary election in November 2001. The newly elected bodies must take prompt measures to ensure that the current slide towards impunity is stopped, so that the people of Kosovo can build a society based on the rule of law and human rights. The violent attacks and political killings of local Serb, Roma and ethnic Albanian residents, which have been on the increase in the region for the past few years must end. In this context, the Special Rapporteur also wishes to encourage the United Nations Mission in Kosovo and KFOR to continue to strengthen their work for the protection and promotion of human rights, as required under Security Council resolution 1244 (1999).

131. After her mission to East Timor, the Special Rapporteur made a number of observations and recommendations, some of which were addressed to the international community, including the United Nations Transitional Administration in East Timor, some to the Government of Indonesia and some to the people and leadership of East Timor. Since then, the Special Rapporteur has continued to follow developments in East Timor and wishes to take this opportunity to make a few observations concerning the situation. While it has not been possible to establish the exact number of victims of the killings in 1999, investigators on the ground have

received reports of some 800 to 900 people killed in the period January-October 1999. The remains of about 280 persons believed to have been killed in that period have been exhumed. At the time of writing, 98 of these bodies had been identified. Investigations on-site have showed that with a few exceptions most of the victims were buried in individual graves. Investigations into the 1999 events are carried out in East Timor by the Serious Crimes Unit (SCU), within the Office of the Prosecutor General. Cases are heard and tried by a special panel of three judges, one East Timorese and two international. The panel has exclusive jurisdiction over the crime of genocide, war crimes and crimes against humanity. It also has jurisdiction over murder, sexual offences and torture committed in the period 1 January-25 October 1999.

132. Progress has been made in investigating and prosecuting these crimes, despite a continuing shortage of resources and staff, including forensic experts, lawyers and investigators. As of mid-November 2001, 32 indictments had been issued against 62 persons alleged to have taken part in acts of murder, persecution and deportation of the civilian population. Seventeen of these persons are said to be at large in Indonesia. Nine of these indictments are for crimes against humanity, with all cases including counts of murder and one of extermination. Currently, 26 individuals are in detention, 24 of whom are charged with murder. As of mid-November 2001, a total of 11 people had been convicted for serious crimes committed in the period 1 January-25 October 1999. Among these cases, the Special Rapporteur notes that, so far, one person, a former commander of the Besi Merah Putih militia, has been indicted and arrested for his involvement in the Liquica church massacre on 6 April 1999 (mentioned in the Special Rapporteurs' joint mission report, A/54/660). However, she understands that no one has been indicted for the massacre at Suai church on 6 September 1999.

133. For its part, the Government of Indonesia has taken some steps to investigate and prosecute persons under its jurisdiction accused of grave human rights violations in East Timor. On 1 August 2001, President Megawati Sukarnoputri signed a decree for the establishment of an ad hoc human rights court for East Timor. The decree reportedly limits the jurisdiction of the court to hearing cases that occurred during two months only, April and September 1999, and in only three districts: Dili, Liquica and Suai. At the time of writing, the court had not yet become operational. The Serious Crimes Unit of the East Timor Prosecutor General's Office has issued indictments against Indonesian military and former militia members residing on Indonesian territory. Under the Memorandum of Understanding signed by the Special Representative of the Secretary-General for East Timor and the Indonesian Attorney General, repeated requests have been transmitted to the Attorney General's Office in Jakarta to question the persons concerned and to receive documentary evidence. Reportedly, so far none of these requests have materialized.

134. The Special Rapporteur welcomes the active interest the Government of Mexico has taken in her report issued following her mission in July 1999 (E/CN.4/2000/3/Add.3). She looks forward to continuing her dialogue with the Government in regard to the follow-up of her report. Since the Special Rapporteur's visit some steps have been taken by the Government to initiate a dialogue with armed opposition groups. Reforms of the country's problematic justice system have also been discussed. Further, the Government is in negotiations with the Office of the High Commissioner for Human Rights to design and initiate a human rights technical cooperation programme in Mexico. The Special Rapporteur is, nevertheless, concerned that

threats and attacks against persons engaged in human rights work have continued in the past three years. The murder of Ms. Digna Ochoa y Pacido in Mexico City on 19 October 2001 clearly shows the vulnerability of human rights defenders in Mexico. She also notes reports that the Government has continued using the military in law enforcement duties. In her mission report, the Special Rapporteur recommended that the National Human Rights Commission (CNDH) be strengthened. Reports suggest, however, that the relevant authorities still fail to implement many of the recommendations of the CNDH. It would also appear that progress has been slow towards ending impunity for grave human rights violations for state agents and certain privileged categories of people, as discussed in the Special Rapporteur's report.

135. The situation in Nepal is a cause for deepening concern. In mid-November 2001, after four months of ceasefire, renewed fighting erupted between government forces and the Communist Party of Nepal (CPN (Maoist)), resulting in considerable casualties on both sides. In response to the deteriorating situation, on 26 November 2001 King Gyanendra Bir Bikram Shah Dev declared a state of emergency. The tragic killing of His Royal Highness King Birendra Bir Bikram Shah Dev and several other members of the royal family on 1 June 2001 brought new uncertainty and political instability to the country. During the period under review, clashes continued between government forces and armed elements of the CPN (Maoist). On 7 April 2001, nine police officers were reportedly summarily executed by members of the CPN (Maoist) at Toli in the district of Dailekh, after having been captured and detained together with 19 other police officers. Some 2,000 people have lost their lives since the conflict started in 1996.

VII. CONCLUDING REMARKS AND RECOMMENDATIONS

136. The situation regarding extrajudicial, summary or arbitrary executions remains grim in areas of armed conflict. The majority of such conflicts occur as a result of ethnic and religious tensions, which remain either unaddressed or suppressed until they erupt in violence. Governments and key international bodies must as a matter of urgency explore ways of addressing situations of emerging conflict and violence at an early stage, so that the lives and security of innocent civilians can be protected. Violation of the right to life is perpetuated in countries where the democratic system does not exist or where it is in its infancy. Poor governance makes Governments dependent on security forces to control the crime rate or other forms of violence, or even dissent through violent means, which invariably raises the risk of extrajudicial executions. A culture of impunity in many countries remains a breeding ground for abuse by the security forces, including extrajudicial killings.

137. There are increasing reports of violations of human rights by non-State actors who continue to kill innocent civilians with impunity. Many of them are tolerated, protected or linked to the Government or its intelligence agencies. There are also non-State actors which pose a serious threat to governments, and unarmed civilians continue to pay the price with their lives in such situations. Situations of armed conflict which drag on for long periods of time are particularly disturbing as their resolution gets more and more complicated, and the authorities become increasingly reluctant to take up the difficult challenge to restore peace.

Recommendations

138. The recommendations presented in the Special Rapporteur's previous report (E/CN.4/2001/9) should be reconsidered and be read as part of the present report. In addition, the Special Rapporteur wishes to present the following recommendations in the hope that they will receive attention.

1. Genocide

139. The Special Rapporteur wishes to emphasize that the primary responsibility to prosecute persons responsible for human rights abuses, including the crime of genocide, rests with the national authorities. However, in the event that the national justice system is unwilling or unable to carry out these functions, the international community must ensure that widespread and systematic human rights violations are dealt with under a wider, universal jurisdiction. The Special Rapporteur welcomes the adoption of the Statute of the International Criminal Court and believes that the Court will provide an important complement to national legal systems that are unable or unwilling to combat impunity by exercising their own jurisdiction. There is a need for a permanent mechanism to prosecute the crime of genocide, whenever and wherever it occurs, without leaving any room for selectivity. In this context, the Special Rapporteur calls on States to expedite the establishment of the International Criminal Court by securing the necessary ratification of the Statute without undue delay.

2. Excessive use of force by law enforcement officials

140. Governments should ensure that their police and security personnel receive thorough human rights training, particularly in regard to restriction of the use of force and firearms in the discharge of their duties. This training should include the teaching of methods of crowd control without resorting to lethal force. All cases of excessive use of force by State agents should be thoroughly investigated and persons responsible for such abuses brought to justice, even in times of political unrest.

3. Deaths in custody

141. All cases of custodial death should be promptly and thoroughly investigated by a body which is independent of the police or prison authorities. Governments should guarantee the right to persons in detention to receive visits from their lawyers and family, and to have access to adequate medical care. When applicable, Governments should also continue to strengthen their cooperation with the International Committee of the Red Cross, and allow free and unimpeded access of its delegates to places of detention. In countries where the facilities to do so exist, law-enforcement agencies should be required by law to communicate electronically to the office of the public prosecutor the name of any person they detain for investigation or for any other reason. The release of the person should also be promptly communicated. In the public areas of prisons, television monitors and sound systems should be installed and made accessible upon request to the public prosecutor, so that the officials accused of custodial deaths can be identified and proper investigation can be facilitated.

4. Death threats

142. The Special Rapporteur urges Governments to recognize their obligation to ensure the protection of the human rights of all persons under their jurisdiction, including the duty to investigate all death threats or attempts against lives which are brought to their attention, regardless of the race, ethnicity, religious belief, political persuasion or other characteristics of the victim. Governments must also take effective preventive measures to protect the security and integrity of those who are particularly exposed or vulnerable to extrajudicial, summary or arbitrary execution. At the same time, Governments should vigorously and consistently publicly denounce death threats, and establish and support policies and programmes condemning the use of violence and promoting a climate of tolerance.

5. Imminent expulsion of persons to countries where their lives are in danger

143. Governments that have not yet ratified the Convention and Protocol relating to the Status of Refugees are strongly encouraged to do so. Governments should further at all times refrain from expelling persons in circumstances where respect for their right to life is not fully guaranteed. Refoulement of refugees or internally displaced persons to countries or areas where respect for their right to life is not fully guaranteed, as well as closure of borders preventing the escape of persons trying to flee a country, should at all times be prohibited. When necessary, the international community should stand ready to assist countries facing a massive influx of refugees whose lives may be in danger, to enable the host country to receive these persons in safety and dignity.

6. Acts of omission

144. Lack of proper delivery of justice forms an act of omission. This problem can best be addressed, where Governments constantly find ways and means to improve their capacity to govern, and put in place independent mechanisms and institutions to ensure the accountability of public functionaries. Governments which appear willing to improve the skills for sound governance should be provided with technical assistance by donor countries and the United Nations.

7. Impunity

145. Impunity continues in some countries as an entrenched political culture. To end it, Governments have to show their total commitment to the rule of law. Civil society must continue to develop public opinion against all forms of impunity for crimes of murder. In other cases, the legal system has to be strengthened and methods of investigation modernized.

8. Violations of the right to life of children

146. Governments, particularly those of countries with large child populations, should begin to reprioritize their national policies and expenditure of resources, so that there is a solid focus on the rights of the child. The use of children in organized crime should be made punishable for

those exploiting the children, rather than the children themselves being penalized. Special child-friendly police forces should be established and trained. These officers should be assigned to deal exclusively with children.

9. Violations of the right to life of women

147. The main reason for the perpetuation of the practice of "honour" killings is the lack of political will by Governments to bring the perpetrators of these crimes to justice. Governments are urged to make legislative changes to ensure that such killings receive no discriminatory treatment under the law and to sensitize their judiciary to gender issues. Those threatening the life of a female victim should be brought to justice. Correctional and custody homes run by Governments should not be permitted to detain forcibly women whose lives are at risk. Prisons should never be used to detain potential victims of honour killings.

10. The right to life and sexual orientation

148. The Special Rapporteur encourages Governments to renew their efforts aimed at protecting the security and the right to life of persons belonging to sexual minorities. Acts of murder and death threats should be promptly and thoroughly investigated, regardless of the sexual orientation of the person or persons concerned. Measures should include policies and programmes geared towards overcoming hatred and prejudice against homosexuals, and sensitizing public officials and the general public to crimes and acts of violence directed against members of sexual minorities.

11. Capital punishment

149. The Special Rapporteur notes that the safeguards and guarantees for the protection of those facing capital punishment are not being followed in a large number of cases brought to her attention. She is also concerned at the lack of transparency and information on capital punishment and executions of death sentences. She, therefore, calls upon all retentionist Governments to impose a moratorium on executions and set up national commissions to report on the situation in the light of international standards and resolutions before executions are resumed. The execution of persons who were children under the age of 18 at the time of the crime is only being carried out by a very few countries. There is a virtual consensus on its abolition. The Special Rapporteur urges the few countries still executing children to abolish the practice. In order to scrutinize whether safeguards relating to capital punishment are being observed, it is urged that every court decision awarding capital punishment must record the safeguards to be observed and that the decision be made public.

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